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PATENT CENTRAL FAX CENTER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE JAN 26 2006

Applicant: Harold R. Garner

Date: 12/8/05

Serial No.: 09/998,341

Group Art Unit: 1634

Filed: 11/29/2001

Examiner: Betty J. Forman

For: DIGITAL OPTICAL CHEMISTRY
MICROMIRROR IMAGER

File No.: 700706.00017

DECLARATION UNDER 37 C.F.R. §41.202(d)

Commissioner For Patents
P O Box 1450
Alexandria, VA 22313-1450

Purpose of Declaration

1. This declaration is to establish completion of the invention, which is the subject of the Continuation of Patent Application Serial No. 09/326,526, filed June 4, 1999, entitled "DIGITAL OPTICAL CHEMISTRY MICROMIRROR IMAGER," which claims priority to Provisional Patent Application Serial No. 60/087,948, filed June 4, 1998 in the United States at a date prior to February 1998, which is the date of the prior art cited by the Examiner in the Office Action mailed January 2, 2001.

2. The person making this declaration is the inventor.

3. The Board of Regents, The University of Texas System is the owner of the patent application by Assignment dated June 3, 1998, recorded on June 4, 1998 at reel 9217, frame 0897.

Facts and Documentary Evidence

4. To establish the date of completion of the invention of this application, the following copies of a presentation related to a grant application is attached hereto as Exhibit A and submitted as evidence. The photograph in Exhibit A was taken in August 1997 and demonstrates that the device as claimed had been built and was operating prior to the filing date of the reference cited as prior art in the parent application of this filing. Exhibit A, attached hereto, demonstrates that the device as claimed had been not only conceived but reduced to practice before the filing date of the art cited in the parent application. Furthermore, this affidavit in conjunction with the affidavit under 37 C.F.R. §1.131 filed in the parent application demonstrated that the device was used to form a mask pattern formed and printed using the

present device, and was therefore reduced to practice in the United States prior to the filing date of the art used for the rejection.

5. From the lab notebook pages attached hereto as Exhibit A, it can be seen that the invention in this application was used to produce a mask pattern on a substrate on the date even therewith, which is on or before February 23, 1998, which is a date earlier than the effective date of the reference cited in the parent application.

Time of Presentation of the Declaration

6. This declaration is submitted prior to final rejection.


Declaration

7. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

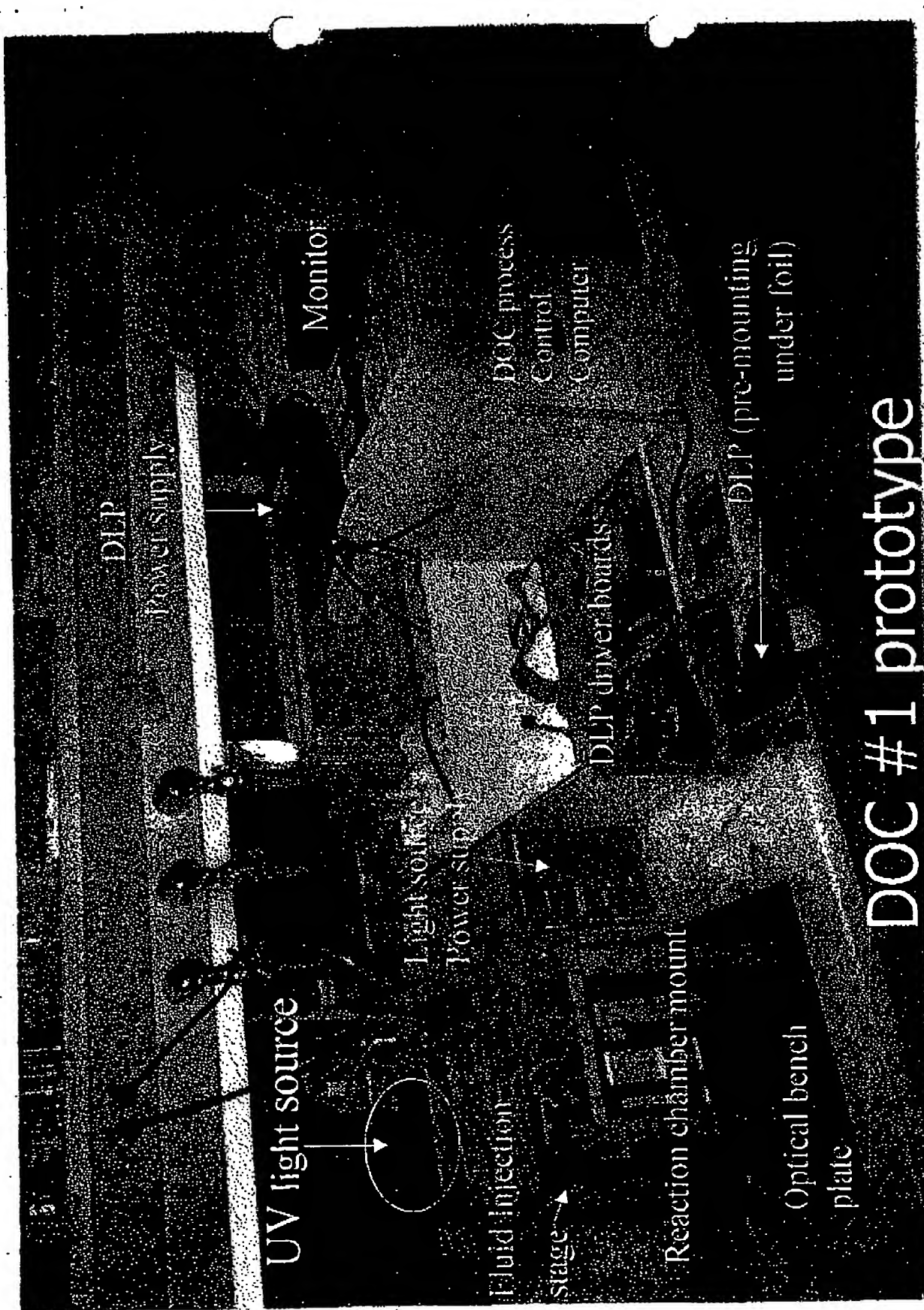
Signature

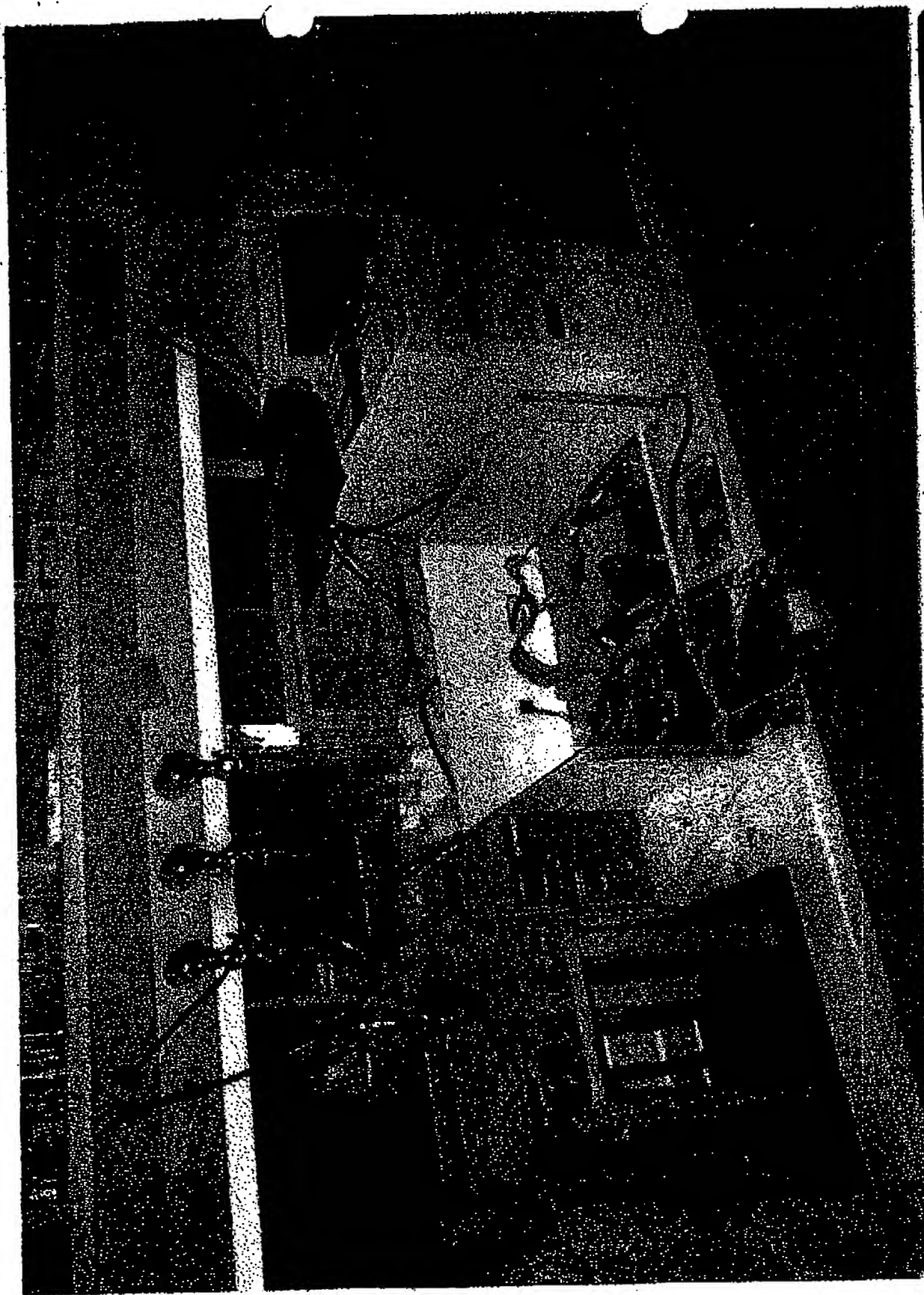
Date: 12/8/05

By: 
Harold R. Garner, Ph.D.
As named inventor.

Residence address:
4100 Post Oak Road
Flower Mound, Texas 75028

Business address:
5323 Harry Hines Blvd., Mail Station 8591
Dallas, Texas 75390-9094





Book No.

TITLE

Page No.

- 1) Slide was modified with $(\text{Et}_3\text{O})\text{Si}(\text{CH}_2)_3\text{N}(\text{CH}_2\text{CH}_2\text{OH})_2$ as described on p. 117.
- 2) washed slide with Spacer 18 (Glen Research) + Activator followed by capping and oxidation.
- 3) Dried slide in desiccator for weekend.
- Reaction on the Robert's machine:
- (1) Deblock; wait (1 min), wash with CH_3CN
 - (2) Activator + W-P6 + C-phosphoramidite; wait, wash
 - (3) Cap 1 + Cap 2; wait, wash
 - (4) Oxidize; wait, wash
 - (5) UV-light; 5 min, without mask, any filter
 - (6) wash
 - (7) Activator + CY-phosphoramidite; wait, wash

To Page No.

read & understood by me.

Date

Invented by

Date

PAGE 7/14 * RCVD AT 1/26/2006 2:28:01 PM [Eastern Standard Time] * SVR:USPTO-EFXXRF-6/25 * DNIS:2738300 * CSID: * DURATION (mm:ss):07:00

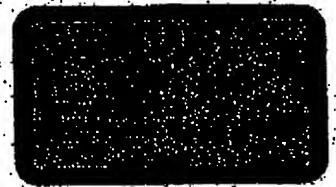
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TO 2#440#9157127383 P.08/14



mask



11/11/97 15:35

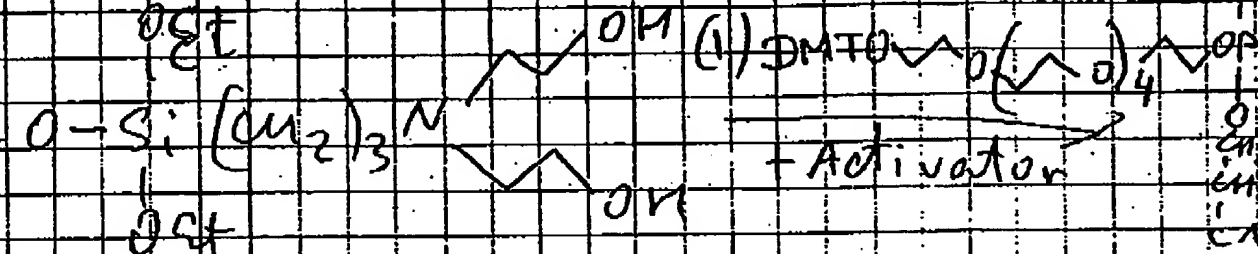
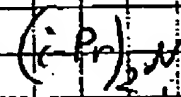
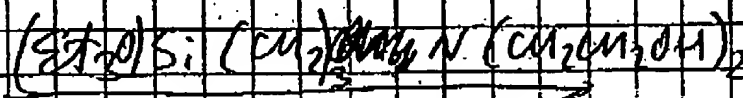
Focus

Page 1

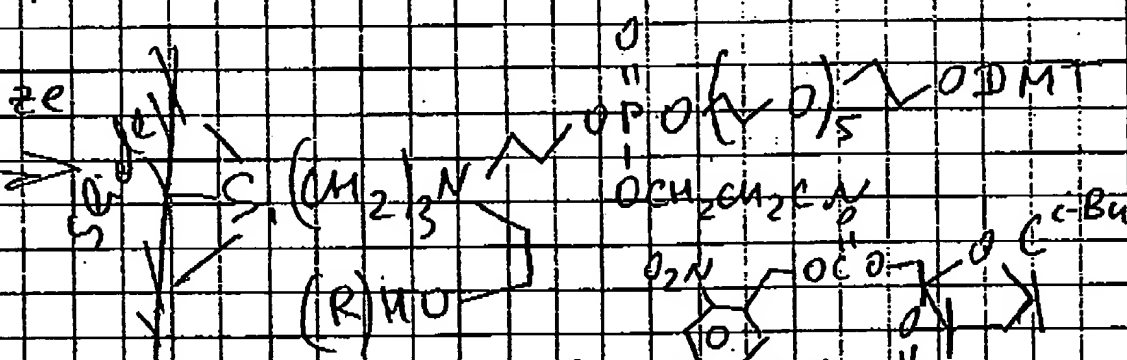
BOOK NO.

TITLE

Chemistry of successful run:



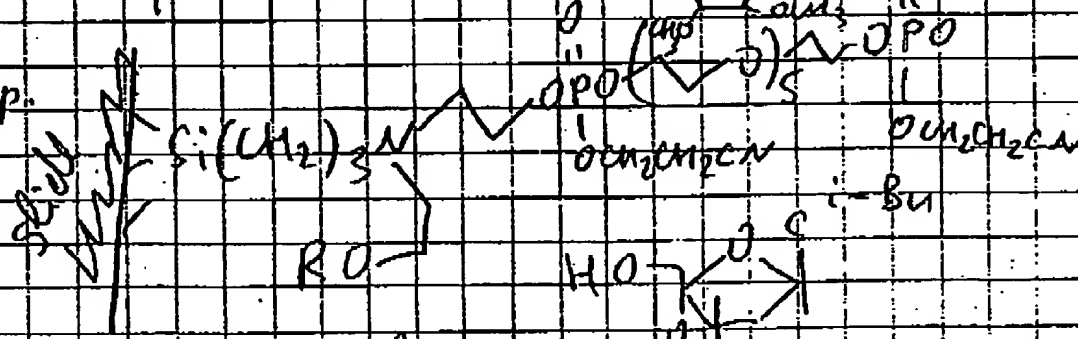
(3) oxidize



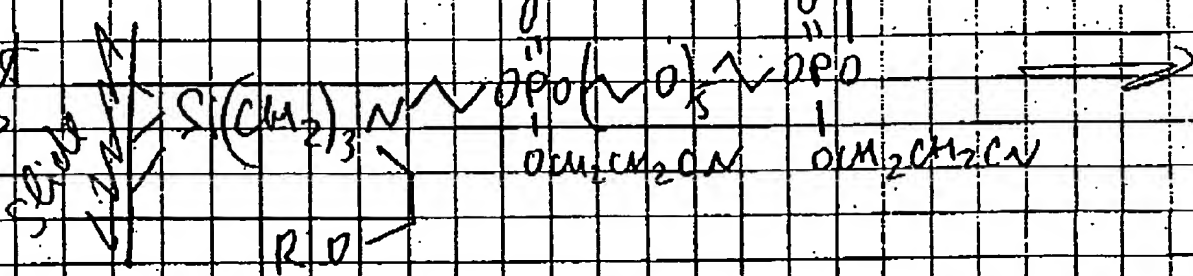
block

Activator +
+ cv-P6-c-phosp.

cap
oxidize



v-light



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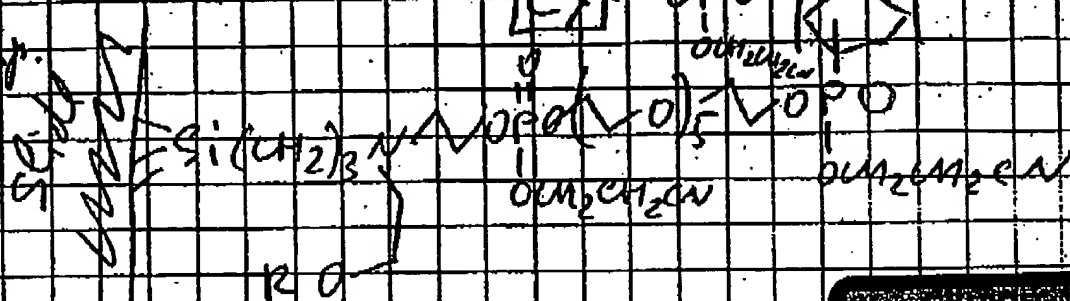
Date

BOOK N°

File No.

Act. + Cy-phosph.

Oxidation



1/ make slides

modif

47-3

non-modif.

✓		
CY-3		

To Page No._____

ed & Understood by me.

Date

Invented by

Date _____

OUR IV.

Date

MMD

Used $S_1(CH_3)_2 N(CH_2CH_2OH)_2$ * Pore Size Pore Size By P_2
 Very as shown in P_2 114.

~~Slide on Activation~~ ~~Double~~ ~~1:1~~ ~~Dehydration~~ ~~Activation~~

~~Washed (1:1, Cap A + Cap B)~~ ~~WASH = ACETONITRILE~~
~~Oxidized (1:1)~~

~~DO Solvent & Activation (1:1 Ratio) (See PLOT 102 for Solvent Structure)~~

~~WASH (1:1 Cap 1:1 Cap 2), WAIT, WASH~~

~~WASH, WAIT, WASH~~

~~WASH, WAIT, WASH~~

~~WASH UV-PG-C-P₁ : Activation (1:1) (Ratio WAIT, WASH~~

~~WASH, WAIT, WASH~~

~~WASH, WAIT, WASH~~

~~1 LIGHT (15 min) No FILTER, used Mask GEL~~

~~OUT OF Run Chamber~~

~~Rest is Under Flood~~

~~Load Activation (Gr-P₁ in 1:1 Ratio, WASH~~

~~Oxidized, WASH, WASH~~

~~WASH w/ Acetone~~

~~For T-Field Microscope~~

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Date _____

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Date _____

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DECLARATION

Commissioner For Patents
P O Box 1450
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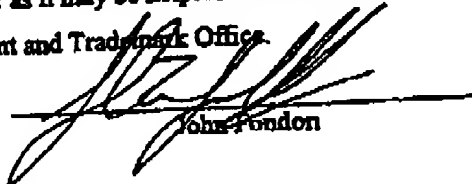
Dear Sir:

I, John Fondon, being warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §101, and that such false statements may jeopardize the validity of the application or any patent issuing therefrom, declares the following:

1. I am not an inventor of the above-identified patent application.
2. The statements contained herein are of my own knowledge and these statements are true and believe to be true.
3. My understanding is that Harold R. Garner has submitted a Declaration to the Patent and Trademark Office establishing that he and his staff built and operated a device known as a digital optical chemistry micromirror imager and further that he built a prototype of that device in November of 1997.
4. Attached hereto is an exhibit showing a photograph of the prototype device from November of 1997. I saw that device at that time in Dr. Garner's laboratory.

This Declaration is submitted insofar as it may be helpful to Dr. Garner in connection with activities before the United States Patent and Trademark Office.

Dated: October 20, 2005


John Fondon

QBMADW05438.1



DOC #1 prototype